

DISPOSITION: 2-13-62. Consent—delivered to a public institution for use as animal feed.

7041. Medicated swine concentrate. (F.D.C. No. 46802. S. No. 28-215 T.)

QUANTITY: 42 3½-lb. cans at Abilene, Kans.

SHIPPED: On or about June 1960, from Des Moines, Iowa.

LABEL IN PART: "Medicated Swine Concentrate Dihydrostreptomycin-Penicillin-Vitamins \* \* \* Dihydrostreptomycin base (as sulfate) 3 grams per pound."

RESULTS OF INVESTIGATION: Analysis showed that the article contained less than the declared amount of dihydrostreptomycin.

LIBELED: 12-22-61, Dist. Kans.

CHARGE: 501(c)—while held for sale, the strength of the article differed from that which it purported to possess.

DISPOSITION: 2-7-62. Default—destruction.

### DRUGS AND DEVICES ACTIONABLE BECAUSE OF FALSE AND MISLEADING CLAIMS

#### DRUGS AND DEVICES FOR HUMAN USE\*

7042. Imitation drugs. (F.D.C. No. 46376. S. Nos. 1-549/55 T.)

INFORMATION FILED: 9-1-61, N. Dist. Ga., against McKinney's Apothecary, a partnership, Decatur, Ga., and William W. McKinney and John Lewis Pledger, partners.

ALLEGED VIOLATION: Between November 1957 and 3-30-61, while quantities of imitation tablets of *Diuril*, *Dexedrine Sulfate* and *Dexamyl* were being held for sale after shipment in interstate commerce, the defendants caused such tablets to be repacked into bottles, which act resulted in such tablets being misbranded.

CHARGE: 502(a)—while held for sale, the label statements on the repack bottles "Tablets Diuril," "Dexedrine," and "Dexamyl" were false and misleading as applied to drugs which consisted of imitations of *Diuril*, *Dexedrine Sulfate*, and *Dexamyl*; 502(i) (2)—the articles were imitations of other drugs, namely, *Diuril*, *Dexedrine Sulfate*, and *Dexamyl*; 502(i) (3)—the articles were offered for sale under the names of other drugs, namely, *Diuril*, *Dexedrine Sulfate*, and *Dexamyl*.

DISPOSITION: 11-8-61. Partnership—\$3,000 fine. Each partner—sentences of 1 year in prison suspended and probation for 3 years.

7043. Herbs. (F.D.C. No. 46207. S. Nos. 20-533/43 R.)

QUANTITY: 5 6-oz. pkgs. and 7 3-oz. boxes of *laxative herbs*; 1 15-lb. container and 3 6-oz. pkgs. of *Herbs No. 7*; 1 10-lb. container, 3 3-oz. pkgs., and 2 6-oz. pkgs. of *Herbs No. 28*; 1 10-lb. container, 4 3-oz. pkgs., and 5 6-oz. pkgs. of *Herbs No. 26*; 1 15-lb. container, 1 3-oz. pkg., and 4 6-oz. pkgs. of *Herbs No. 27*; 50 lbs. of anise seed; 50 lbs. of catnip; 100 lbs. of fennel seed; 2 75-lb. drums of peppermint leaves; 1 50-lb. drum of cascara; 1 35-lb. drum of cheeseplant; 50 lbs. of red clover tops; 100 lbs. of licorice root; 30 lbs. of American licorice; 15 lbs. of juniper berries; 75 lbs. of berberis root;

\*See also Nos. 7004, 7007-7010, 7013, 7014, 7020, 7022, 7024-7029, 7032-7036.

35 lbs. of wintergreen; 50 lbs. of sassafras bark; 50 lbs. of sculcap; 50 lbs. of dog grass; 25 lbs. of buchu; 50 lbs. of India sage; and 35 lbs. of liferoot, at Lorain, Ohio, in possession of Devore Herbs Co.

SHIPPED: Prior to June 1958 and on or about 7-2-58 and 3-17-59, from Jersey City, N.J.

LABEL IN PART: (Pkg.) "Devore Laxative Herbs—Extra Strong \* \* \* Devore Herbs Company, Vermillion, Ohio" and "Devore Herbs No. 7 [or "28" or "26" or "27"]."

ACCOMPANYING LABELING: Leaflets entitled "Sluggish Kidneys May Cause Backache, Getting Up Nights"; six pages of leaflets stapled together and entitled "Nature's Way is Best," with one page headed "Constipation" and one page headed "In Giving The Therapeutical Value of Botanicals In This page"; and repack labels and empty retail packages.

RESULTS OF INVESTIGATION: The articles were repacked and labeled by the dealer from bulk stock shipped as described above. The leaflets were prepared by the dealer and were used in promoting sales of the articles.

LIBELED: 8-15-61, N. Dist. Ohio.

CHARGE: 502(a)—while held for sale, the labeling of the articles contained false and misleading representations that the various articles were adequate and effective as a treatment for use in eliminating body wastes and thereby preventing, overcoming, or relieving colds, coughs, piles, fever, backaches, and nerve conditions; and that herbal preparations were capable of relieving pain, expelling worms, curing rheumatism, preventing spasms, purifying the blood, cleaning boils and ulcers, curing ringworm and other skin diseases, and dispelling tumors.

DISPOSITION: 3-28-62. Consent—claimed by Theodore J. Risen, t/a Devore Herbs Co., Lorain, Ohio, and relabeled.

7044. Kiddy Kaps vitamins. (F.D.C. No. 47138. S. Nos. 9-680 T, 10-684 T.)

QUANTITY: 106 24-tablet btl., 5 cases, 24 100-tablet btl. each, and 6 cases, 12 250-tablet btl. each, of *Kiddy Kaps Tastitreat*; 17 32,000-tablet drums of *Kiddy Kaps Vitamin Chew tablets*; and 32 cases, 24 100-tablet btl. each, and 18 cases, 12 250-tablet btl. each, of *Kiddy Kaps Vitamin Treat*, at Buffalo, N.Y., in possession of Republic Drug Co., Inc.

SHIPPED: Between 11-9-61 and 12-29-61, from Englewood, N.J., and Cleveland, Ohio, to Buffalo, N.Y.

LABEL IN PART: (Btl.) "Kiddy Kaps Tastitreat Sugar Free Vitamin Treat for Children \* \* \* Republic Drug Company, Inc., Buffalo, N.Y. Distributors"; (drum) "Manufactured For Republic Drug Company, Inc. Vitamin Chew Tablets"; and (btl.) "Kiddy Kaps Vitamin Treat for Children \* \* \* Republic Drug Company, Inc., Distributors Buffalo, New York."

ACCOMPANYING LABELING: Streamers entitled "Kiddy Kap Childrens Vitamins"; place cards entitled "Free Reg. \$1.00 Size Kiddy-Kaps"; newspaper advertisement mats and impressions of same reading, in part, "Fight Colds Build Strong Bodies \* \* \* Kiddy Kaps"; and extra bottle labels.

RESULTS OF INVESTIGATION: The dealer had repacked the *Kiddy Kaps Tastitreat tablets* from bulk stock and the *Kiddy Kaps Vitamin Treat tablets* from the 32,000-tablet drums. The bulk stock and the drums had been shipped as described above. The accompanying labeling was printed locally.

LIBELED: 2-23-62, W. Dist. N.Y.